

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TINYBUILD LLC, a Washington limited
liability company,

Plaintiff,

v.

NIVAL INTERNATIONAL LIMITED, a
Cypriot corporation,

Defendant.

NO. 2:19-cv-00805-TSZ

**DECLARATION OF ALEX
NICHIPORCHIK IN SUPPORT OF
TINYBUILD'S OPPOSITION TO
DEFENDANT'S MOTION FOR
PROTECTIVE ORDER**

ALEX NICHIPORCHIK declares as follows:

1. I am a Chief Operating Officer of tinyBuild, LLC ("tinyBuild"). I have personal knowledge of the facts contained in this declaration and I am competent to testify to them.

2. I founded tinyBuild in 2013. I have been directly involved with every aspect of the company's operations since its inception.

DECLARATION OF ALEX NICHIPORCHIK IN OPPOSITION TO
DEFENDANT'S MOTION FOR PROTECTIVE ORDER- 1
[Case No. 2:19-cv-00805-TSZ]

FOSTER GARVEY PC
1111 THIRD AVENUE, SUITE 3000
SEATTLE, WASHINGTON 98101-3296
PHONE (206) 447-4400 FAX (206) 447-9700

1 3. In March 2018, tinyBuild entered into a Development and Publishing
2 Agreement with Nival International Limited ("Nival") to develop a video game (the
3 "Product"). Section 1.1 of the Agreement makes clear that tinyBuild owns all IP
4 rights in the Product.

5 4. To this day, Nival continues to retain tinyBuild's proprietary source
6 code in the Product. tinyBuild has consistently demanded return of the source
7 code, through counsel and through direct communications with Nival, since
8 January 2019.

9 5. I understand that Nival has filed a motion for a protective order that
10 would allow it to produce records, including tinyBuild's proprietary IP, on an
11 "Attorney's Eyes Only" basis. tinyBuild does not have an in-house lawyer. The
12 protective order Nival seeks would thus give Nival unfettered right to prevent
13 tinyBuild from reviewing Nival's discovery material and participating in the
14 defense of Nival's Counterclaim and prosecution of tinyBuild's own claims.
15 Without access to Nival's discovery materials, tinyBuild would have to rely on
16 outside experts and counsel, which would unnecessarily increase litigation costs
17 and deny tinyBuild the opportunity to meaningfully participate in the litigation
18 strategy, selection of witnesses, depositions, and other essential aspects of the case
19 for which it has unique insight and knowledge to contribute.

20 6. I can't think of a third party tinyBuild could retain in this matter who
21 would be better qualified than tinyBuild's own officers and employees to review
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1 Nival's discovery materials, including IP related to the project, with respect to
2 compliance with the terms of the Agreement, compliance with industry norms, and
3 misappropriation of third-party IP.

4 7. tinyBuild has no intention of disclosing any information obtained
5 from Nival through discovery in this action for any purpose unrelated to its
6 pursuit of tinyBuild's legal claims and defense of the claims Nival brought against
7 tinyBuild.

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DECLARATION OF ALEX NICHIPORCHIK IN OPPOSITION TO
DEFENDANT'S MOTION FOR PROTECTIVE ORDER- 3
[Case No. 2:19-cv-00805-TSZ]

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1 I certify under penalty of perjury of the laws of the State of Washington that the
2 foregoing is true and correct.

3 Signed this 10th day of October, 2019, in Bellevue, Washington.
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6 Alex Nichiporchik
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DECLARATION OF ALEX NICHIPORCHIK IN OPPOSITION TO
DEFENDANT'S MOTION FOR PROTECTIVE ORDER- 4
[Case No. 2:19-cv-00805-TSZ]

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CERTIFICATE OF SERVICE

I hereby certify that on October 10, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all parties who have appeared in this matter.

s/Ann Gabu

Ann M. Gabu, Legal Assistant
Foster Garvey
1191 Second Avenue, Suite 1800
Seattle, WA 98101
(206) 816-1398
ann.gabu@foster.com

DECLARATION OF ALEX NICHIPORCHIK IN OPPOSITION TO
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